

REMARKS

The following remarks are supplemental to the remarks previously submitted in the present application.

Applicant is the Assignee of the present application and is prosecuting the present application under 37 C.F.R. § 3.71. A statement under 37 C.F.R. § 3.73(b) is submitted herewith.

Status of claims

Claims 49, 50, 62 – 96, 112 – 148, 164 – 200, and 216 – 270 were previously pending in this application. With the present amendment claims 228 – 230 and 270 are cancelled; claims 49, 62, 114, 166 and 235 are amended; and new claims 271 and 272 are added.

The cancellation of the cancelled claims is not intended in any way to affect the scope and breadth of the claims that are not cancelled and currently remain pending. The non cancelled claims are expressly intended to be afforded the full scope and breadth as afforded to them previously.

Thus currently pending in the present application are claims 49, 50, 62 – 96, 112 – 148, 164 – 200, 216 – 227, 231 – 269, 271 and 272. The pending claims are to be construed in light of the remarks submitted in previous amendments and submissions under sections entitled “claim construction”.

Included in the present application are claims that are of broader scope than the claims of U.S. Patent No. 6,285,987 that issued from patent application no. 08/787,979 (“‘979 application”), to which the present application claims priority. The Examiner is advised that all disclaimers of claim scope, if any, made during prosecution of the ‘979 application (including the interference proceeding) as well as all statements, if any, made during prosecution of the ‘979 application, that emphasize particular inventive features of the claims in the ‘979 application, should not in any way limit the claim scope and patentability of the claims in the present applications. In accordance with *Hakim v. Cannon Avent Group, PLC*, 479 F.3d 1313 (Fed. Cir. 2007), Applicant expressly rescinds and disavows all limiting statements and arguments, if any, made in the prosecution of the ‘979 application as they

would pertain to the pending claims. Any prior art they were made to avoid may need to be revisited in connection with the pending claims. The pending claims are only to be construed and limited in light of the remarks and statements submitted in the instant application. *See Id.* at 1318 (“Although a disclaimer made during prosecution can be rescinded, permitting recapture of the disclaimed scope, the prosecution history must be sufficiently clear to inform the examiner that the previous disclaimer, and the prior art that it was made to avoid, may need to be re-visited.”). The foregoing should not in any way be construed as an admission that such limiting statements and arguments in fact exist in the prosecution history of the ‘979 application.

Each pending claim is supported by the disclosure of the ‘979 application and is to be afforded the priority date therefrom. Applicant acknowledges that without the priority date of the ‘979 application, such claim would not have been patentable

CONCLUSION

In view of the foregoing remarks, the present application is believed to be in condition of allowance. In the event the Examiner believes that a telephonic interview would be helpful in expediting prosecution of the present application, the Examiner is respectfully requested to contact the undersigned at the number indicated below.

Dated: March 26, 2009

Respectfully submitted,

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